

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



July 8, 2004

Regulation Package #1202-27

CDSS MANUAL LETTER NO. FS-04-03

TO: HOLDERS OF THE FOOD STAMP MANUAL, DIVISION 63

Regulation Package #1202-27**Effective 3/27/04****Section 63-502**

This manual letter has been posted on the Office of Regulations Development website at http://www.dss.cahwnet.gov/ord/FoodStamps_618.htm.

The United States Department of Agriculture, Food and Nutrition Service released Administrative Notice 02-23 dated February 2, 2002, clarifying that states, in accordance with the provisions of federal regulations at 7 Code of Federal Regulations, Section 273.9(d)(6)(iii)(F), do not have the option to prorate the Standard Utility Allowance (SUA) when household members share utility expenses (heating or cooling) with excluded individuals (e.g., ineligible noncitizens). The California Department of Social Services issued All-County Letter 02-55, dated July 22, 2002, stating that effective October 1, 2002, the procedures for budgeting of the SUA would be updated to allow a household with an excluded member to claim the full SUA. These regulations align state regulations with the federal regulations for budgeting of the SUA.

These regulations were considered at the Department's public hearing held on October 15, 2003.

FILING INSTRUCTIONS

All new revisions are indicated by a vertical line in the left margin. Revisions shown in graphic screen will continue to be shown in that manner until new revisions are done to those pages. The attached pages are to be entered in your copy of the Manual of Policies and Procedures. The latest prior manual letter containing Food Stamp Manual changes was FS-04-02.

Page(s)Replace(s)

253 through 262.2

Pages 253 through 262.2

Attachments

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63-502 INCOME, EXCLUSIONS AND DEDUCTIONS (Continued)**63-502**

- (b) A standard telephone allowance of \$20 shall be used only in instances where the household has a telephone, or in its absence, an equivalent form of communication and is not entitled to the SUA. If the household's actual telephone service fee is greater than the standard allowance, and it represents the lowest available rate to the household, the household may request to have the actual service fee used. The household must be able to verify the actual cost claimed. Failure to have a telephone will not preclude use of the full SUA.
- (c) Except as provided in Section 63-502.363(b), the household entitled to the SUA shall be advised at initial certification, recertification and when a household moves that it may, instead of using the SUA, deduct its total actual utility costs if the household can verify these costs. Households certified for 24 months may also choose to switch between standard and actual costs at the time of the mandatory interim contact.
- (d) The SUA for food stamp households shall be adjusted annually by SDSS to reflect increases or decreases in the cost-of-living occurring after June, 1982. The first such adjustment becomes effective January 1, 1983 and subsequent adjustments shall take effect each January 1 through September 30, 1994. The SUA annual adjustments shall take effect each October 1, beginning October 1, 1994.
- (1) The cost-of-living shall be calculated by CDSS based on the weighted average of the Fuel and Other Utilities Index of the Consumer Price Index for All Urban Consumers (CPI-U), when published by the U.S. Department of Labor, Bureau of Labor Statistics for Los Angeles-Long Beach-Anaheim and San Francisco-Oakland. The weighting factor for each area is as used by the State Department of Industrial Relations to calculate the California Consumer Price Index (CCPI).
- (2) The percentage change to be determined shall be for a 12-month period ending with March of the same year for which the cost-of-living adjustment will take effect. The SUA in effect during the month of October preceding the calendar year in which the adjustment is to take place will be increased/decreased by the 12-month percentage change, with the resulting SUA to be rounded to the nearest dollar. The result shall constitute the new SUA (see Handbook Section 63-1101.26).
- (e) When the SUA is revised due to the annual adjustments, it shall be applied to all households on the effective date of the revised SUA (see Handbook Section 63-1101.26). The change to the new SUA shall not be considered a switch from the actual amounts to the SUA for purposes of Section 63-502.352(c).

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.37 Shared Living Expense Deductions

Shared living expenses include allowable shelter, utility and/or dependent care expenses which the Food Stamp eligible household member(s) shares with an excluded/ineligible household member(s) or another household which may or may not be participating in the Food Stamp Program.

.371 Treatment of a Food Stamp Household that Contains an Excluded Member(s)

When the food stamp household lives with and shares utility expenses with an excluded/ineligible household member(s), the CWD shall not prorate the SUA. Refer to Sections 63-502.362, .363 and .375 to determine the allowable deduction for actual expenses.

.372 Treatment of Separate Households

The food stamp household may live with another household(s) which may or may not participate in the Food Stamp Program. If these households share shelter and/or utility expenses, the CWD will either allow actual expenses for each household or allow actual shelter expenses and divide the standard utility allowance equally by the number of the households contributing to the expense.

- (a) Under no circumstance is the total amount of utility costs used to determine the amount of the deduction to exceed the total amount of the actual utility costs or SUA for the residence.
- (b) For the food stamp household(s), the CWD shall use the household's share of utility expense to then determine the Food Stamp household's utility deduction and the household's actual shelter expense to determine the shelter deduction, based on its household composition.

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| (c) UTILITY ALLOWANCE DECISION CHART

IF THE HOUSEHOLD (HH) ...

THEN ...

SEPARATE RESIDENCE-SEPARATE METER

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| (1) Lives in a separate residence and pays heating and cooling based on its own metered usage. | Allow full SUA or actual costs, based on HH choice. |
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SEPARATE RESIDENCE-SHARED METER

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| (2) Lives in a separate residence from another HH but shares a meter and each HH is billed a percentage of the utilities by a nonresident landlord. | Allow actual costs for both HHs. |
| (3) Lives in a separate residence but shares utility meter, and one HH is billed for the cooling and/or heating, and the other pays a percentage of the total bill (neither HH is the landlord). | Allow full SUA or actual net costs for the HH which is billed (HH's choice), the other is allowed the actual costs. May mix SUA and actuals because of separate residence. |
| (4) Lives in separate residence and shares the meter - HH #1 billed for the heating and HH #2 for cooling. | Allow full SUA or actual costs for each HH. May mix because of separate residence. |

| SHARED RESIDENCE (Refer to Section 63-502.375 if HH has excluded members.)

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| (5) Shares a residence, shares billed expenses, including but not limited to each paying a percentage or portion, or one HH pays for the heating costs and the other pays for the cooling. | If the FSHH chooses SUA, divide the SUA among the number of households contributing. Allow FSHH's pro rata share of the SUA. If FSHH chooses actual expenses, allow the actual amount paid. |
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| (6) | Shares a residence - HH #1 is billed for utilities and HH #2 pays rent including utilities. | Allow full SUA or actual expenses for HH #1 (HH's choice). Allow actual housing costs (rent) and no separate utilities for HH #2 because the utility costs are included in its rent. |
| (7) | Shares a residence - HH #1 is billed and HH #2 pays a flat amount to HH #1 for utilities separate from rent. | If the FSHH chooses SUA, divide the SUA among the number of households contributing. Allow FSHH's pro rata share of the SUA. If FSHH chooses actual expenses, allow actual amount paid. |

HOMELESS HOUSEHOLDS

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| (8) | Receives Homeless Shelter Deduction. | Not entitled to SUA. |
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HANDBOOK ENDS HERE

.373 Food Stamp Households with Excluded Members

The CWD must identify which excluded members are contributors. Contributors are those household members who share the residence and the expense of that residence by paying or obligating money from their separate income or resources. If the excluded member(s) lives with and shares utility expenses with the food stamp household and the food stamp household elects the SUA, refer to Section 63-502.371.

(a) IPV Disqualifications and/or Workfare/Work Sanctions

If the food stamp household shares deductible expenses with members who are excluded because they are IPV disqualified or have been sanctioned for refusing to fulfill workfare or work requirements, the entire rent and utility amounts are counted as deductions for the Food Stamp household budget.

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(b) Ineligible Noncitizens and/or SSN Disqualifications

If the food stamp household members who are ineligible noncitizens or members excluded for SSN disqualification pay part or all of the deductible expenses, the expenses will be prorated among all members and only the eligible members' share is counted as the deduction. Refer to MS 63-502.375 for instructions on how to prorate.

(1) If any ineligible noncitizen contributes to the household expenses, all ineligible noncitizens of that household are counted in the proration. If any SSN disqualified member contributes to the household expense, all SSN disqualified members of that household are counted in the proration.

(2) To be considered a contributor the ineligible noncitizen or SSN disqualified member must actually be using his/her income or resources to contribute. If s/he is acting solely as an agent or payee for another household member, s/he would not be included in the proration.

(A) Any of these members who have income must be included in the proration of expenses.

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(3) EXAMPLE: Household composition:

Father - an ineligible noncitizen, does not contribute to expenses
Mother - an eligible noncitizen receiving AFDC, contributes to expenses
Two children receiving AFDC

The CWD would not consider the father in the proration calculation solely based on his relationship with the mother. He is not calculated into the proration **because he does not contribute.**

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(c) SSI recipients and/or Excluded Students

If the food stamp household shares deductible expenses with members who are excluded because they are SSI recipients or excluded students, amounts contributed by those excluded members shall be deducted from the allowable expense. Only the remaining dollar amount shall be allowed as the Food Stamp household's deduction.

- (1) If payments or contributions made by these excluded members cannot be differentiated, the expenses shall be prorated evenly among the members contributing to the expense and only the food stamp household's pro rata share is counted as the deduction.
- (2) If an SSI recipient and/or excluded student household member does not contribute to the household expenses, he/she is not counted in the proration.

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.374 CWDs may use the following chart when calculating shelter expenses in shared living situations. Additionally, the following steps may be helpful in the calculation process:

- (a) Determine the number of households sharing the residence (refer to MS 63-502.361). Use household composition rules and the Decision Chart below.
- (b) Determine the number of households contributing to the expense.
- (c) Determine the amount of the Food Stamp household's contribution. See the Rent and Utilities sections of the Decision Chart below.
- (d) If the Food Stamp household contains excluded members, see the Decision Chart below.

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DEDUCTION DECISION CHART IN SHARED LIVING ARRANGEMENTS

	<u>Within Residence</u>		<u>Within FSHH</u>	
	Separate HHs: Includes roomers, attendants, or others who live with HH but purchase and prepare separately (i.e., another family)	IPV/Work Sanction Within the FSHH	SSI/Recipient Excluded Student Within the FSHH	Ineligible Noncitizen/SSN Disqualified Within the FSHH
HH Composition Test: Would the person(s) be an otherwise eligible HH member(s), per HH composition rules? (M.S. 63-402.1)	No.	Yes, as determined by HH composition rules. Items below apply.	Yes, as determined by HH composition rules.	Yes, as determined by HH composition rules. If yes, then items below apply.
Shelter (M.S. 63-502.35)	Allow actual amount paid by FSHH as its deduction. If contribution cannot be differentiated, prorate by the number of HHs contributing.	Count total of eligibles' and IPV/Work sanctioned excluded members' rent in FS budget.	Deduct contribution of excluded members from expense, and allow the FSHH the remainder as its deduction. If contribution cannot be differentiated, prorate and allow only the portion attributed to eligible HH members.	Prorate expense: Divide evenly among eligibles and these excluded members; count eligibles' share.

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DEDUCTION DECISION CHART IN SHARED LIVING ARRANGEMENTS (Continued)

	<u>Within Residence</u>		<u>Within FSHH</u>	
	Separate HHs: Includes roomers, attendants, or others who live with HH but purchase and prepare separately (i.e., another family)	IPV/Work Sanction Within the FSHH	SSI/Recipient Excluded Student Within the FSHH	Ineligible Noncitizen/SSN Disqualified Within the FSHH
Utilities SUA or Actuals (M.S. 63-502.353)	If FSHH is eligible for and chooses the SUA, prorate: Divide the SUA evenly among number of HHs contributing. Allow FSHH's pro rata share. Allow actuals if FSHH chooses.	Count total of eligibles' and IPV/work sanctioned members' actuals in FS budget. If sharing utilities with FSHH, allow full SUA.	Known contribution: Deduct from total; allow amount paid by FSHH as deduction. Unknown contribution: Prorate: Divide evenly among eligibles and excluded members contributing; allow eligible members' share. If sharing utilities with FSHH, allow full SUA.	Prorate expense: Divide evenly among eligibles and these excluded members; count eligibles' share. If sharing utilities with FSHH, allow full SUA.
Resources (M.S. 63-501.1)	Not available to FSHH.	Count all.	Not available to FSHH.	Count all.
Income (M.S. 63-502.1)	Not available to FSHH. (If person makes a cash contribution to HH, apply normal income standards.)	Count all	Not available to FSHH (If person makes a cash contribution to HH, apply normal income standards).	Prorate: Divide evenly among eligibles and these excluded members; count eligibles' share.

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63-502	INCOME, EXCLUSIONS AND DEDUCTIONS (Continued)	63-502
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.375 To prorate within the food stamp household, the CWD shall:

- (a) Find the sum of contributors. The categories and treatment of contributors are as follows:
 - (1) Household members excluded for food stamps: Count all food stamp eligible persons plus any person disqualified for IPV or workfare/work sanction.
 - (2) Household members excluded due to noncitizen status or is SSN disqualified: If one ineligible noncitizen contributes or has income, count all ineligible noncitizens. If one SSN disqualified member contributes or has income, count all SSN disqualified members.
 - (3) Household members excluded due to being an SSI recipient or excluded student: Count only the person(s) contributing when the contribution cannot be differentiated.
- (b) Divide the total applicable expense by the total number of contributors found in (a) above to arrive at the pro rata share per person.
- (c) Multiply the pro rata share from (b) above by the number of food stamp eligible persons and IPV or workfare/work sanctioned persons from (a)(1) above. This is the pro rata share of expenses to allow the food stamp eligible members. If the excluded member(s) lives with and shares utility expenses with the food stamp household and the food stamp household elects the SUA, do not prorate the SUA refer to Section 63-502.371.

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.376 EXAMPLES

NOTE: The SUA figure used in the examples below is the Federal Fiscal Year 2004 figure. This section will not be amended to reflect adjustments to the SUA, which can occur annually. CWDs will need to use the current SUA figure when calculating deductions.

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Step 4. Determine amount to be used in FS budget

HH A: Rent $\$300 \div 2$ (AFDC children) = \$150

$\$150 \times 2$ (AFDC children) = \$300

SUA \$227

Whether or not the ineligible noncitizen contributes, the FSHH is allowed the full SUA (i.e. no proration of the SUA if the FSHH is contributing toward utilities).

III.	Mother -	ineligible noncitizen; contributes towards rent and utilities
	2 Children -	AFDC
	Unrelated adult -	shares expenses and contributes \$150 for rent and \$113 for utilities; purchases and prepares food separately
	Excluded student -	no contribution; purchases and prepares with mother and children

Total rent: \$400 eligible for and chooses to divide the SUA: $\$227 \div 2 = \113.50

Step 1. Determine number of HHs sharing the residence

HH A: Ineligible noncitizen mother, 2 AFDC children, and excluded student

HH B: Unrelated adult

Step 2. Determine number of HHs contributing to the expense

HH A + HH B = 2

Step 3. Determine amount of each HHs' contribution

HH A: Rent $\$400 - \$150 = \$250$ SUA \$113.50

HH B: Rent \$150 SUA \$113.50

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Step 4. Determine amount to be used in FS budget

HH A: Rent $\$250 \div 3$ (mother + 2 AFDC children) =
 $\$83.33 \times 2$ (2 children) = \$166.67

NOTE: Excluded student doesn't contribute, therefore isn't included in the proration

SUA \$113.50 SUA is prorated between HH A and HH B. \$113.50 is allowed in the FS budget.

IV. Mother - 2 Children - SSI recipient	IPV disqualified: contributes to rent and utilities AFDC contributes, but amount of contribution is unknown; purchases and prepares with mother and children
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Total rent: \$400 eligible for and chooses SUA: \$227

Step 1. Determine number of HHs sharing the residence

HH A: IPV Disqualified mother, 2 AFDC children, and SSI recipient

Step 2. Determine number of HHs contributing to the expense

HH A = 1

Step 3. Determine amount of each HHs contribution

HH A: Rent \$400
 SUA \$227

Step 4. Determine amount to be used in FS budget

HH A: Rent $\$400 \div 4$ (mother, two children and SSI recipient)
 $= \$100 \times 3$ (2 AFDC children + mother) = \$300
 SUA \$227 Full SUA allowed.

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Step 1. Determine number of HHs sharing the residence

HH A: Mother, 2 AFDC children, SSI child, and ineligible noncitizen adult

HH B: SSI grandmother

Step 2. Determine number of HHs contributing to the expense

HH A + HH B = 2

Step 3. Determine amount of each HH contribution

HH A: Rent \$500 - \$150 = \$350 SUA \$227

HH B: Rent \$150

Step 4. Determine amount to be used in FS budget

HH A: Rent $\$350 \div 4$ (mother, SSI child, and AFDC children) =
\$87.50 x 3 (mother and AFDC children)* = \$262.50
SUA \$227. Full SUA Allowed.

*Note: The ineligible noncitizen was not included in the proration of the rent in Step 4 as this individual does not pay anything towards these expenses (therefore is not a contributor).

Whether or not the ineligible noncitizen contributes, the FSHH is allowed the full SUA (i.e. no proration of the SUA if the FSHH is contributing toward utilities).

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| .38 Child Support Deduction

| .381 The child support deduction is the monthly amount of child support payments that a household member, with a legal obligation to pay child support payments to or for an individual living outside of the household, actually makes.

| .382 The payments shall be verified as specified in Section 63-300.51(j).

| .383 Households that fail or refuse to cooperate by supplying the necessary verifications shall have their eligibility and benefit level determined without a child support deduction.

| .384 Payments are deductible only to the extent that they represent the household's child support obligation which has been ordered by a court or administrative authority.

| .385 Child support payments made to a third party (e.g., a landlord or utility company) on behalf of the nonhousehold member in accordance with the support order shall be included in the child support deduction. Payments made by a household with a legal obligation to obtain health insurance for a child shall also be included as part of the child support deduction.

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.386 Amounts paid toward arrearages shall be deductible.

NOTE: Authority cited: Sections 10553, 10554, 11209, 18900, 18901 and 18904, Welfare and Institutions Code. Reference: Sections 10554, 18901, and 18904, Welfare and Institutions Code; Public Law (P.L.) 99-603, Section 201(a), Section 245A(h)(1)(A)(iii), Immigration Reform and Control Act; 100-50, Sections 22(e)(4) and 14(27), enacted June 3, 1987; P.L. 100-77; P.L. 101-201; P.L. 101-508, Section 11111(b); P.L. 103-66, Section 5(c), (d) and (e) and Section 8(a); 7 Code of Federal Regulations (CFR) 271.2; 7 CFR 273.1(c)(6); 7 CFR 273.4(a) and (c)(2); 7 CFR 273.7(f); 7 CFR 273.9; 7 CFR 273.9(b)(1), (b)(1)(v), (c), (c)(1)(i)(E), and (c)(1)(ii); (c)(1)(ii)(G), (c)(8), (c)(11)(i) and (ii), (d), (d)(6), (d)(6)(iii)(F), and proposed (d)(7) as published in the Federal Register, Vol. 59, No. 235 on December 8, 1994, 7 CFR 273.10(d)(1)(i) and (e)(1)(i)(H); 7 CFR 273.11(b)(1); 7 CFR 273.11(c), (d) and (d)(1) and (e); 7 CFR 273.21(j)(1)(vii)(A); 7 United States Code (U.S.C.) 2014(c), (d), (e), (k)(1)(B), and (k)(2)(F); 7 U.S.C. 2015(e); 7 U.S.C. 2017(a); 20 U.S.C. 2466d.; 26 U.S.C. 32(j)(5); P.L. 104-193, Sections 807, 808, 809, 811, and 829 (Personal Responsibility and Work Opportunity Reconciliation Act of 1996); (Court Order re Final Partial Settlement Agreement in Jones v. Yeutter (C.D. Cal Feb. 1, 1990) [Dock. No. CV-89-0768].); United States Department of Agriculture (U.S.D.A.) Food and Consumer Services (FCS) Administrative Notice (AN) 88-40, Indexed Policy Memo 88-10, dated April 20, 1988; U.S.D.A., FNS ANs 91-24, 91-30, 94-39, 94-41, dated April 19, 1994; the July 8, 1988 district court order in Hamilton v. Lyng; and Section 4103, Food Stamp Reauthorization Act of 2002, P.L. 170-171 [7USC 2014(d) and (e)]; and U.S.D.A., FNS AN 02-23, dated February 6, 2002.

63-503	DETERMINING HOUSEHOLD ELIGIBILITY AND BENEFIT LEVELS	63-503
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.1 Month of Application

.11 A household's eligibility shall be determined for the month of application by considering the household's circumstances as of the date of interview, except as specified in Sections 63-402.9 (Strikers), 63-408 (Voluntary Quit), 63-501.6 (Resource Transfers), 63-503.212 (Income Determinations), and 63-503.43 (Destitute Households), and 63-301.7 and .82 (Categorically Eligible Households).

.12 A calendar month shall be used for certification and issuance purposes. However, a CWD may, with prior SDSS and FNS approval, use a fiscal month if the CWD determines that it is more efficient and satisfies SDSS that the accounting procedures fully comply with certification and issuance requirements contained in these regulations. A CWD may elect to use either one fiscal month for all households, or more than one fiscal month with varying beginning dates based on the date a household files an application.

.13 A household's benefit level for a) the initial month of certification, or b) the first month for which the household is certified for participation in the Food Stamp Program following any period during which the household was not certified for participation, shall be prorated from the date the application is received in the appropriate office. However, if processing of the application was delayed beyond 30 days due to the fault of the household, the benefit level shall be prorated from the date the CWD received verification that the household completed the required action, as specified in Section 63-301.423. Migrant and seasonal farm worker households which have a break in participation of 30 days or less shall not have their benefits prorated. They shall receive benefits for the whole month.

.131 Using a calendar or fiscal month, households shall receive benefits prorated from the date of application to the end of the month, except as specified in Section 63-503.13. The CWDs shall either:

(a) Refer to Handbook Section 63-1101 for Reciprocal Table for computing first month benefits, or

(b) Use the following formula:

$$\begin{array}{rclclcl}
 \text{full month's} & & & & \text{(number of days in month +1} & & \\
 \text{benefits} & & & & \text{- date of application)} & & \\
 & \times & & \text{number of days in month} & = & \text{allotment}
 \end{array}$$